

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JIMMIE LEE JONES, JR.,

Petitioner,

v.

DOUG WADDINGTON,

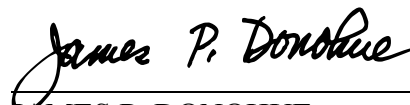
Respondent.

CASE NO. C05-1766-JCC-JPD

REPORT & RECOMMENDATION

Petitioner is a state prisoner who has filed a *pro se* petition for a writ habeas corpus pursuant to 28 U.S.C. § 2254, along with an application for leave to proceed *in forma pauperis*. (Dkt. #1). Petitioner was convicted in 2002 of first degree assault and was sentenced to 14 years in prison. (Dkt. #1, Petition at 1). Petitioner's direct appeal in state court was unsuccessful. (*Id.* at 2). In his petition, petitioner states that he filed a personal restraint petition ("PRP") in the Washington Court of Appeals on July 27, 2005, and that the PRP is still pending. (*Id.* at 3-4). Because petitioner concedes that his PRP is pending, petitioner's habeas petition is premature. *See* 28 U.S.C. § 2254(b) (a habeas petitioner must exhaust his state remedies before filing a petition in federal court); *See United States v. Deeb*, 944 F.2d 545, 548 (9th Cir. 1991) (a district court should not entertain a collateral attack on a conviction while other remedies are pending because to do so would thwart judicial economy). Thus, the court concludes that the instant habeas petition is premature and should be dismissed without prejudice. A proposed Order accompanies this Report and Recommendation.

DATED this 1st day of November, 2005.

  
JAMES P. DONOHUE  
United States Magistrate Judge

REPORT & RECOMMENDATION